

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Aaron & Amanda Leisinger,
Petitioners-Appellants,

v.

Benton County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 13-06-0443
Parcel No. 77001540

On October 18, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Aaron and Amanda Leisinger were self-represented and requested a written consideration. County Attorney David C. Thompson represented the Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Aaron and Amanda Leisinger are the owners of property located at 7803 18th Avenue, Blirstown, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$314,000. The Leisingers protested their assessment to the Benton County Board of Review on the ground the property was assessed for more than authorized by law under section 441.37(1)(a)(2). They asserted the correct value was \$261,500. The Board of Review granted the protest, in part, reducing the assessment to \$282,000, allocated as \$28,100 in land value and \$253,900 in improvement value. The Leisingers then appealed to this board reasserting their claim.

The property record card indicates the subject is a one-story, frame home built in 2006. It has 1885 square feet of above-grade living area, and a full basement with 1600 square feet of average finish. Additional features include a three-car garage, a patio, and a deck. There are also three steel utility buildings on the site, all built in 2007, that have a total building area of 5600 square feet. The site is 7.23 acres.

The Leisingers provided an appraisal to the Board of Review. The appraisal was completed by Brett Bro of Bro Property & Appraisals, LLC, Toledo, Iowa. Bro developed only the sales comparison approach to value using three sales and one listing. He concluded the subject property had a value of \$261,500, as of January 17, 2013.

The properties Bro chose are all located within fifteen miles of the subject. All are acreages, but none has a site as large as the subject's. Two of the sales and the listing are one-story designs like the subject; the other sale is a two-story home. After Bro adjusted the comparable properties for differences, he arrived at an indicated range of value from \$261,300 to \$282,485. The active listing indicated an adjusted value of \$256,000. Bro's appraisal does not contain detailed explanations for adjustments made to the comparable properties. However, it is the only evidence in the record that determines a fair market value for the subject property.

On their protest to this Board, the Leisingers noted they recently purchased the property "in a competitive bidding situation for \$253,700." Further, they note the property was listed for sale through Fannie Mae since October 2012, and was systematically reduced from that date until they purchased it. They believe the property's listing history; their purchase price; and the appraisal, are "three separate price points for this property...established by market participants or market professionals" and all indicate the property is over-assessed.

Although the Leisingers believe the subject's listing history establishes the property is over assessed, we find it of little relevance in this case for two reasons. Foremost, the property was listed

by a government agency/financial institution at the time of sale. In arriving at market value, sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). Second, as a listing, even if it would have been at arm's-length, it does not conclusively establish market value for the subject property.

The certified record also includes property record cards for the three sales in Bro's appraisal, as well as two additional properties. The two additional sales are located at 7789 18th Avenue (City unknown), which sold in November 2010, and 2015 78th Street, Blairstown, which sold in 2012. We give these two properties no consideration because it is unlikely the 2010 sale necessarily would reflect a 2013 value, and neither sale was adjusted for differences to establish a market value for the subject property.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

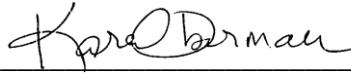
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property's correct value. *Boekeloo*, 529 N.W.2d at 276-77.

The Leisingers provided an appraisal with a market value opinion of \$261,500, as of January 17, 2013. Bro, the appraiser, developed the sales comparison approach and used three comparable sales and one listing. There is no evidence in the record that the appraisal has deficiencies, and upon our review we cannot point to any that would render it unreliable. Therefore, we find the appraisal is the best evidence in the record of the subject's January 1, 2013, fair market value.

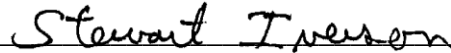
THE APPEAL BOARD ORDERS the assessment of Aaron and Amanda Leisinger's property located at 7803 18th Avenue, Blairstown, Iowa, is modified to a total value of \$261,500, allocated as \$28,100 in land value and \$233,400 in improvement value as of January 1, 2013.

The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Benton County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

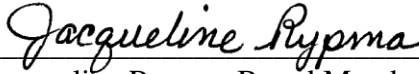
Dated this 12th day of November, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

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AUDITOR

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on November 12, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____